

ORIGINAL

OPEN MEETING AGENDA ITEM



SOUTHWEST GAS CORPORATION

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2013 JUN -5 A 11: 52

AZ CORP COMMISSION
DOCKET CONTROL

June 5, 2013

Docket Control Office
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007-2996

Re: Docket No. G-01551A-12-0497

Southwest Gas Corporation hereby submits for filing an original and thirteen (13) copies of its Comments and Proposed Amendment in the above-referenced docket.

If you have any questions, please contact me at (702) 876-7163.

Respectfully,

by amg
Debra S. Gallo

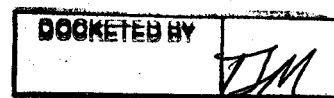
Debra S. Gallo, Director
Government & State Regulatory Affairs

DSG/cb
Enclosures

Cc: Service List

Arizona Corporation Commission
DOCKETED

JUN 05 2013



1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2
3 **COMMISSIONERS**

4 Bob Stump, Chairman

5 Gary Pierce

6 Brenda Burns

7 Bob Burns

8 Susan Bitter Smith

9 In the Matter of the Application of Southwest
10 Gas Corporation for a Waiver of Certain
11 Affiliated Interest Rules, or in the Alternative,
12 Prior Approval of Certain Transactions.

DOCKET NO. G-01551A-12-0497

**COMMENTS AND
PROPOSED AMENDMENT**

13 **COMMENTS AND PROPOSED AMENDMENT OF**
14 **SOUTHWEST GAS CORPORATION**

15 Southwest Gas Corporation ("Southwest Gas" or "Company") hereby submits
16 written comments in response to the Arizona Corporation Commission's ("Commission")
17 Utilities Division Staff's ("Staff") Memorandum and Proposed Order regarding Southwest
18 Gas' Application for a Waiver of Certain Affiliated Interest Rules, or in the Alternative,
19 Prior Approval of Certain Transactions ("Application"), filed December 21, 2012. In
20 addition, Southwest Gas offers a proposed amendment to Staff's proposed order.

21 **I. Comments**

22 Through its Application Southwest Gas seeks to update and extend its existing
23 affiliated interest exemptions and exceptions to reflect the current circumstances and
24 financial condition of the Company, as these allowances have not been considered by
25 the Commission in nearly twenty years. Approval of the Application will allow
26 Southwest Gas to focus its resources on the Company's growth, thereby enhancing its
27 ability to capitalize on opportunities which are beneficial to both its shareholders and
28 customers.

1 In its Memorandum and Proposed Order, Staff recommends various changes
2 to and disapprovals of the requests included in Southwest Gas' Application. For the
3 reasons set forth herein and those previously stated in the Application, Southwest Gas
4 takes exception with the analysis and recommendations made by Staff.

5 **A. A.A.C. R14-2-804.B.2**
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7 In response to Southwest Gas' request to increase the threshold amount it is
8 allowed to lend to certain affiliates under Section R14-2-804.B.2 of the Arizona
9 Administrative Code ("A.A.C.") from \$13 million to \$40 million in any 12-month period,
10 Staff recommends that Southwest Gas' proposed increase to \$40 million in loans or
11 advances to affiliates be approved, but that the \$40 million be treated as a total cap.
12 While Staff's recommended increase is consistent with Southwest Gas' request, the
13 Company takes exception with the proposal that the \$40 million be treated as a total
14 cap. This recommended cap imposes a limitation upon Southwest Gas that does not
15 currently exist.
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17 As set forth in the Application, Southwest Gas is currently allowed to make
18 advances or loans to certain affiliates not to exceed \$13 million in any 12-month
19 period, without prior Commission approval. Although increasing the \$13 million
20 threshold to \$40 million will return the Company's threshold-to-total asset ratio to 1%,
21 implementing a related total cap will subject Southwest Gas to a restriction that has
22 not previously been imposed. In other words, while trueing-up the threshold that was
23 approved by the Commission more than twenty years ago to accurately reflect the
24 Company's current financial condition, Staff's recommendation takes it a step further
25 by proposing to levy the added restriction of a total cap on the approved threshold
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1 amount. This proposed additional restriction was not considered necessary when the
2 original threshold was approved by the Commission, and such a limitation remains
3 unnecessary today given Southwest Gas' increased financial strength.

4 In addition, Southwest Gas takes exception with the recommendation that it not
5 be allowed to expand the requested loan threshold to all existing and future Southwest
6 Gas affiliates. The organization of the Company as well as other circumstances have
7 changed since the original waiver request twenty years ago. Including all existing and
8 future Southwest Gas affiliates under the threshold will account for these changes, in
9 addition to increasing administrative efficiency by eliminating the need to file
10 applications for approval each time Southwest Gas forms a new affiliate. As the
11 requested threshold of \$40 million is not a significant percent of Southwest Gas' total
12 current assets, the requested expansion will not have a material adverse effect on the
13 financial status of the Company or its ability to provide safe, reasonable, and
14 adequate service to its customers – a point that is not disputed by Staff.

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18 **B. A.A.C. R14-2-804.B.1**

19 In an effort to mitigate the regulatory anxiety that is often experienced by those
20 interested in transacting business with it, Southwest Gas requests that it be allowed to
21 obtain an initial financial interest in non-regulated energy or construction related
22 businesses up to the current cumulative amount of \$50 million per year. Southwest
23 Gas takes exception with Staff's analysis and related recommendation to disapprove
24 this request. Nonetheless, the Company offers up an alternative proposal for
25 consideration which may address the concerns raised by Staff.
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1 Southwest Gas' alternative proposal is derived from a prior Commission
2 decision involving Tucson Electric Power Company (Docket No. U-1933-95-069;
3 Decision No. 59543). In this matter, the Commission approved what it referred to as a
4 "floating bank account" with an account balance that would go down when the utility
5 made an investment, and which would go back up if the Commission granted after-
6 the-fact approval or a waiver to the investment. In other words, the Commission pre-
7 approved a certain dollar amount which the utility could invest. After investing these
8 funds, the utility could then request Commission approval or waiver after-the-fact of
9 the investment, which if granted, would effectively pre-approve the next investment up
10 to the dollar amount set by the Commission. The Commission concluded that in
11 granting this relief it would allow the utility "to act expeditiously in the face of
12 competition," while at the same time "limiting the amount of diversification."
13 Southwest Gas seeks similar treatment here as historically it has faced the identical
14 challenge of losing out on fast moving business acquisitions and investments due to
15 perceived regulatory delays.

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19 In light of Staff's recommendation to disapprove the relevant request made in
20 the Application, Southwest Gas requests that it be allowed to obtain an initial financial
21 interest in non-regulated energy or construction related businesses up to the current
22 cumulative amount of \$50 million per year, subject to the "floating bank account"
23 concept approved in the aforementioned docket. Specifically, the \$50 million
24 allowance will go down when the Company makes an investment, and will go back up
25 if the Commission subsequently grants after-the-fact approval or a waiver to the
26 investment. Southwest Gas submits that at the very least, equity and fairness justify
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1 extending to it treatment similar to that which was afforded Tucson Electric Power
2 Company in Decision No. 59543.

3 **C. A.A.C. R14-2-804.B.3**

4 In response to Southwest Gas' request to allow it to sell its interest in a
5 subsidiary, without having to seek prior Commission approval, Staff recommends that
6 there be no waiver of prior Commission approval as "[w]aiving this exemption does not
7 benefit ratepayers." Southwest Gas takes exception with the standard that Staff has
8 applied in arriving at its recommendation, as well as the recommendation itself.
9 Southwest Gas submits that the more appropriate standard to be applied in this
10 analysis is whether the proposed exemption is harmful to ratepayers. Staff has failed
11 to make any such showing in its Memorandum. To the contrary, extending a limited
12 exemption for the sale of its subsidiaries would not have any material adverse effect
13 on Southwest Gas' customers, it will not negatively impact Southwest Gas' customer
14 service, and there will be no change in the current rates or terms and conditions of
15 service as a result of this exemption. Thus, such an exemption is appropriate under
16 the circumstances.
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20 **II. Proposed Amendment**

21 In addition to the foregoing comments, Southwest Gas offers the following
22 proposed amendment to Staff's Proposed Order:
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- 24 1. **Page 10, line 3** – delete "not".
- 25 2. **Page 10, line 4** – add "as set forth herein" after "waivers".
- 26 3. **Page 10, line 12** – add "per year" after "advances". Delete ", but be treated as
27 a total cap".
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- 1 4. **Page 10, lines 13-14** – delete in entirety.
- 2 5. **Page 10, line 16** – delete “not”.
- 3 6. **Page 10, lines 17-21** – delete in entirety.
- 4 7. **Page 10, line 23** – add “in non-regulated energy or construction related
- 5 businesses” after “investments”.
- 6 8. **Page 10, line 24** – delete “not”.
- 7 9. **Page 10, after line 24** – insert “IT IS FURTHER ORDERED that the \$50 million
- 8 allowance granted herein will act as a ‘floating bank account’ in that the
- 9 balance will go down when Southwest Gas Corporation makes an investment
- 10 and will go back up if the Commission subsequently grants after-the-fact
- 11 approval or a waiver to the investment.”
- 12 10. **Page 11, line 2** – delete “not”.
- 13 11. **Page 11, line 3** – delete “no”.

14 For ease of reference, a marked-up copy of the relevant sections is included
15
16 herewith as Attachment 1.

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19 **III. Conclusion**

20 In light of the existing limited waivers and the affiliate transactions that
21 Southwest Gas is currently authorized to engage in without seeking prior approval, the
22 updates and limited waivers requested in the Application will not have a material
23 adverse effect on Southwest Gas customers. Indeed, customers, as well as the
24 Commission and the Company, will benefit from the requested relief in that the limited
25 waivers will result in an increase in administrative efficiency and lower related
26 administrative costs through eliminating the need to file applications for approval
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1 under the circumstances set forth in the Application. Based upon the foregoing, and
2 in the interests of equity and fairness, Southwest Gas respectfully requests that its
3 proposed amendment be approved.

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5 Dated this 5th day of June 2013.

6 Respectfully submitted,

7 SOUTHWEST GAS CORPORATION

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10 
11 Jason S. Wilcock, Esq.
12 Arizona Bar No. 028856
13 5241 Spring Mountain Road
14 Las Vegas, Nevada 89150
15 Telephone: (702) 364-3227
16 Facsimile: (702) 252-7283
17 Email: jason.wilcock@swgas.com

18 *Attorney for Southwest Gas Corporation*
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BEFORE THE ARIZONA CORPORATION COMMISSION

BOB STUMP

Chairman

GARY PIERCE

Commissioner

BRENDA BURNS

Commissioner

BOB BURNS

Commissioner

SUSAN BITTER SMITH

Commissioner

**IN THE MATTER OF SOUTHWEST GAS
CORPORATION'S APPLICATION FOR A
WAIVER OF CERTAIN AFFILIATED
INTERESTS RULES, OR IN THE
ALTERNATIVE, PRIOR APPROVAL OF
CERTAIN TRANSACTIONS**

DOCKET NO. G-01551A-12-0497

DECISION NO. _____

ORDER

**Open Meeting
June 11 and 12, 2013
Phoenix, Arizona**

BY THE COMMISSION:

FINDINGS OF FACT

1. Southwest Gas Corporation ("Southwest" or "the Company") is engaged in providing natural gas service within portions of Arizona, pursuant to authority granted by the Arizona Corporation Commission.

Background

2. Application. On December 21, 2012, Southwest Gas Corporation filed an application requesting limited waivers of A.A.C. R14-2-804.B.1-3 of the Commission's Affiliated Interests Rules. These waivers would allow Southwest to make certain loans and investments involving unregulated affiliates, and to sell interests in certain subsidiaries, without prior Commission approval. In the alternative, Southwest requests prior approval of certain affiliate transactions.

...

ORDER

...

IT IS FURTHER ORDERED that Southwest Gas Corporation's proposal that it be allowed to divest itself of a subsidiary without prior Commission approval is not approved.

IT IS FURTHER ORDERED that no prior approvals with respect to loans or investments relating to Southwest Gas Corporation's affiliates, or with respect to sales of its subsidiaries, are granted.

IT IS FURTHER ORDERED that this Order shall take effect immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2013.

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

SMO:JMK:sms\WVC

1 **SERVICE LIST FOR SOUTHWEST GAS CORPORATION:**
2 **DOCKET NO. G-01551A-12-0497**

3 Debra S. Gallo
4 Director/Government and State
5 Regulatory Affairs
6 Southwest Gas Corporation
7 P.O. Box 98510
8 Las Vegas, Nevada 89193-8510

9 Jason S. Wilcock
10 Senior Counsel
11 Regulatory Affairs
12 Southwest Gas Corporation
13 P.O. Box 98510
14 Las Vegas, Nevada 89193-8510

15 Mr. Steven M. Olea
16 Director, Utilities Division
17 Arizona Corporation Commission
18 1200 West Washington Street
19 Phoenix, Arizona 85007

20 Ms. Janice M. Alward
21 Chief Counsel, Legal Division
22 Arizona Corporation Commission
23 1200 West Washington Street
24 Phoenix, Arizona 85007